

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

EARL SULLIVAN,

Petitioner,

v.

Civil No. 2:07-CV-11667
HONORABLE VICTORIA A. ROBERTS
UNITED STATES DISTRICT JUDGE

JERI-ANN SHERRY,

Respondent,

/

**OPINION AND ORDER DENYING THE
RULE 60(b) MOTION FOR RELIEF FROM JUDGMENT**

Earl Sullivan, (“petitioner”), a state prisoner presently incarcerated at the Chippewa Correctional Facility in Kincheloe, Michigan, filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, in which he challenged his 1978 convictions out of the Detroit Recorder’s Court for first-degree felony murder and possession of a firearm in the commission of a felony. After determining that this was a successive challenge by petitioner to these convictions, the Court transferred the case to the United States Court of Appeals for the Sixth Circuit for petitioner to obtain authorization to file a successive petition for writ of habeas corpus. The United States Court of Appeals for the Sixth Circuit subsequently dismissed petitioner’s case for want of prosecution. *In Re Sullivan*, U.S.C.A. 07-1574 (6th Cir. July 9, 2007).

Petitioner has now filed a Rule 60(b) motion for relief from judgment from the Sixth Circuit’s decision.

A district court lacks the authority to reinstate a habeas petitioner's second or successive petition for writ of habeas corpus after the Court of Appeals declines to grant petitioner leave to file such a petition. *See White v. Carter*, 27 Fed. Appx. 312, 313-14 (6th Cir. 2001). Therefore, this Court is without authority to grant petitioner relief from the Sixth Circuit's refusal to grant petitioner permission to file a successive habeas petition.

IT IS HEREBY ORDERED that the Rule 60(b) motion for relief from judgment [Dkt. Entry # 4] is **DENIED**.

S/Victoria A. Roberts

Victoria A. Roberts
United States District Judge

Dated: September 5, 2007

The undersigned certifies that a copy of this document was served on the attorneys of record and pro se petitioner by electronic means or U.S. Mail on September 5, 2007.

s/Carol A. Pinegar
Deputy Clerk